



State of California  
Office of the Attorney General

**ROB BONTA**

ATTORNEY GENERAL

September 14, 2023

**VIA U.S. MAIL & EMAIL**

Brad Tooker, Ed.D., Superintendent  
Members, Board of Trustees  
Dry Creek Joint Elementary School District  
8849 Cook Riolo Road  
Roseville, CA 95747

RE: Item 7.1 on September 14, 2023 Agenda – Proposed Administrative Regulations - 5020 Parent Rights and Responsibilities; 5145.3 Nondiscrimination/Harassment Second Reading and Approval

Dear Superintendent Tooker and Members of the Dry Creek Joint Elementary School Board:

I write to share my serious concern regarding the proposed amendments to Administrative Regulation 5020, Parent Rights and Responsibilities (AR 5020) and Administrative Regulation 5145.3, Nondiscrimination/Harassment (AR 5145.3),” scheduled for consideration on the agenda for the September 14, 2023, meeting of the Dry Creek Joint Elementary School District (“DCJESD”) Board of Trustees. AR 5020 would, if enacted as the proposed amendment reflects, require school officials to notify parents whenever a student requests: (1) to be identified as a gender other than the child’s biological sex or gender; (2) to use a name that differs from their legal name or use pronouns that do not align with the child’s biological sex or gender; or (3) access to sex-segregated school programs or activities, or bathrooms or changing facilities that do not align with the child’s biological sex or gender. (Item 7.1 Proposed Administrative Regulation 5020 Parent Rights & Responsibilities). AR 5145.3, if enacted as the proposed amendment reflects, would exempt parental disclosure from a student’s right to keep private their transgender or gender-nonconforming status. (Item 7.1, Administrative Regulation 5143.3 Nondiscrimination/Harassment Action).

On behalf of the People of the State of California, my office recently sued the Chino Valley Unified School District (“CVUSD”) to enjoin its enforcement of a substantially similar forced “outing” policy. (*People ex rel. Bonta v. Chino Valley Unified School District*, San Bernardino County Superior Court, case number CIVSB2317301.) We challenged that policy pursuant to California’s constitutional guarantees of equal protection and privacy (Cal. Const., art. I, §§ 7, 1), as well as state statutes prohibiting discrimination in education and state-funded

programs or activities (Ed. Code, § 200 et seq.; Gov. Code, § 11135). In light of the ongoing and imminent harms to children created by the policy, we also sought a temporary restraining order (“TRO”) to prevent enforcement of the policy on an emergency basis. On September 6, 2023, the San Bernardino Superior Court granted that TRO; a copy of the order granting the TRO is attached to this letter. To obtain the TRO, my office showed that significant harm to students was likely to occur.

In addition to singling out transgender and gender nonconforming students and infringing upon their rights to equal protection, anti-discrimination, and privacy, forcing school staff to “out” students to their parents is very likely to result in significant emotional, mental, and even physical harm and subject students to discriminatory harassment. While many students are blessed to have supportive parents, others are not so fortunate, and there are numerous applications of this policy that can cause imminent harm, including: (1) where parents have threatened to emotionally, psychologically, or physically harm the student if the student identifies as a gender different from the one assigned at birth or the student believes such harm is likely to occur,<sup>1</sup> and (2) when a student’s family relationships are so fraught that the student expresses a significant likelihood that they may commit self-harm or suicide if their gender identity was disclosed to their parents.<sup>2</sup>

Recognizing the significant harms that transgender students may suffer from being “outed” to their parents against their will, the California Department of Education recommends that schools “consult with a transgender student to determine who can or will be informed of the student’s transgender status, if anyone, including the student’s family.”<sup>3</sup> The California Department of Education further instructs, “schools are required to respect the limitations that a student places on the disclosure of their transgender status, including not sharing that information with the student’s parents,” subject to “rare exceptions.”<sup>4</sup> The guidelines recommend disclosure of a student’s status to parents only in “those very rare circumstances where a school believes there is a specific and compelling ‘need to know’” and that the school give the student advance notice before informing the parents.<sup>5</sup> AR 5020 and AR 5145.3, as proposed to be amended, contradict this guidance in almost every respect.

The proposed policies falsely assume that parents cannot be informed without unnecessary, forced disclosures. As the Department of Education’s guidelines make clear, there are numerous other ways to allow schools to inform and involve parents while respecting student privacy and safety. Schools can inform parents with a student’s consent; schools can inform parents where there is a specific and compelling need to protect the student; students can inform parents when they are ready, in the time and manner chosen by the family; schools can

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<sup>1</sup> Cf. Stacy Chen, *Oklahoma School Shuts Down for 2 Days After Parents Threaten Transgender 7th Grader*, ABC News (Aug. 15, 2018), <https://tinyurl.com/43ek5z28>.

<sup>2</sup> See Ashley Austin et al., *Suicidality Among Transgender Youth: Elucidating the Role of Interpersonal Risk Factors*, 37 J. Interpersonal Violence 5 (2020).

<sup>3</sup> Cal. Dep’t of Educ., *Frequently Asked Questions*, <https://tinyurl.com/y54447xf>; see also Cal. Dep’t of Educ., *Legal Advisory*, <https://tinyurl.com/3unt8xds> (citing FAQ).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

Superintendent Tooker and Members of the Dry Creek Joint Elementary School Board

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encourage students to inform their parents; and schools can help students initiate these conversations with parents through counseling and other support services. All these methods can enable—and for years, already have enabled—parents to partner with schools throughout the State without putting students at risk.

We urge you to consider the harms and negative impacts to children in your district if you adopt the proposed harmful policies under consideration. My office has a substantial interest in protecting the legal rights of children in California schools and protecting such children from trauma and exposure to violence. I will not hesitate to take action as appropriate to vigorously protect students' civil rights.

Sincerely,



ROB BONTA  
Attorney General

Enclosure

cc: Tony Thurmond, California Superintendent of Public Instruction

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Attorneys for The People of the State of California

Fee Exempt Pursuant to Government  
Code § 6103

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

SEP 06 2023

BY DM  
DEBRA PEDROSA, DEPUTY

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **COUNTY OF SAN BERNARDINO**

14 **THE PEOPLE OF THE STATE OF**  
15 **CALIFORNIA, EX REL. ROB BONTA,**  
16 **ATTORNEY GENERAL OF THE STATE**  
17 **OF CALIFORNIA,**

Plaintiff,

18 v.

19 **CHINO VALLEY UNIFIED SCHOOL**  
20 **DISTRICT,**

Defendant.

CIV SB 23 17 30 1

Case No.

~~[PROPOSED]~~ TEMPORARY  
RESTRAINING ORDER; ~~[PROPOSED]~~  
ORDER TO SHOW CAUSE RE:  
PRELIMINARY INJUNCTION;  
~~[PROPOSED]~~ ORDER GRANTING  
APPLICATION TO SEAL OR REDACT  
DECLARATIONS AND LEAVE TO FILE  
DECLARATION UNDER PSEUDONYM

Date: 9/6/2023  
Time: 8:30 a.m.  
Dept: 527  
Judge: Hon. Thomas Garza  
Trial Date:  
Action Filed: 8/28/2023

24 Based upon the Court's review of the People of the State of California's Ex Parte  
25 Application for Temporary Restraining Order and Order to Show Cause re: Preliminary  
26 Injunction; the Memorandum of Points and Authorities in Support of Ex Parte Application for  
27 Temporary Restraining Order (TRO) and Order to Show Cause (OSC) re Preliminary Injunction;  
28

1 the Request for Judicial Notice in Support of the Ex Parte Application for TRO and OSC re  
2 Preliminary Injunction; the Memorandum of Points and Authorities in Support of Application to  
3 Seal or Redact Declarations; the accompanying declarations and exhibits; and upon sufficient  
4 cause being shown thereby, the Court hereby FINDS and ORDERS as follows:

5 **TEMPORARY RESTRAINING ORDER**

6 The Court finds Plaintiff, the People of the State of California, has demonstrated a  
7 likelihood that it will prevail on the merits of its Complaint, and that the relative balance of harms  
8 to both Plaintiff and Defendant require the Court to issue interim relief pending the determination  
9 of the Order to Show Cause as to Why a Preliminary Injunction Should Not Issue Against  
10 Defendant.

11 It is **FURTHER ORDERED** that, pending the hearing on the Order to Show Cause re:  
12 Preliminary Injunction, Defendant and its agents, employees, assigns, and all persons acting in  
13 concert with it are restrained and enjoined from adopting, implementing, enforcing, or otherwise  
14 giving effect to: (1) CVUSD Board Policy 5020.1, subdivisions 1.(a) and (b) of the Policy in full;  
15 (2) subdivision 1.(c) of the Policy, insofar as it applies to transgender or gender nonconforming  
16 students' requests to change their name, pronouns, sex or gender on unofficial records; and (3)  
17 subdivision 5 of the Policy, insofar as it applies to transgender or gender nonconforming students  
18 (a) requesting to be treated as a gender other than the student's biological sex or gender listed on  
19 the student's birth certificate or any other official records; or (b) accessing sex-segregated school  
20 programs or activities that do not align with the student's biological sex or gender listed on the  
21 student's birth certificate or any other official records.

22  
23 **SO ORDERED.**

24 Dated: 9/6/23



25 *Tom Garza*  
26 Hon. **Thomas Garza**  
27 San Bernardino Superior Court  
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